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22440	7590	04/07/2006	EXAMINER	
GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 100160601			CANGIALOSI, SALVATORE A	
			ART UNIT	PAPER NUMBER
			3621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 3621

1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claims 3,4, 7-13, 18-21, 23-26,29 are rejected under 35 U.S.C. § 103 as being unpatentable over Downs et al (6226618) in view of Logan (2002/ 0120925) and Hassell et al (2001/0050920).

Regarding claim 7, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose method for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata substantially as claimed. The differences between the above and the claimed invention is the use of content criteria. It is noted that it is believed that usage conditions in metadata that control the player are functionally equivalent to the claimed criteria because Downs et al explicitly states that

Art Unit: 3621

"metadata is used throughout this document to mean data related to content". It is further noted that copy restrictions will enable or disable a player. Logan(See abstract, Col. 1, paragraphs 3, 12, etc) shows metadata employed to control playback based on repertoire content. Hassell et al (See Col. 3, section 37) show metadata containing checksum criteria. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Downs et al because the metadata means are conventional functional equivalents. Regarding the database limitations of claim 3, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose method for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata including a database (Col. 51, lines 45-55) which is a functional equivalent of the claim limitations. Regarding the database limitations of claim 4, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose method for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata including a database (Col. 51, lines 45-55) which is a functional equivalent of the claim limitations. Regarding claim 8, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65,

Art Unit: 3621

and col. 83, lines 20-25) disclose a player means for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata substantially as claimed. The differences between the above and the claimed invention is the use of content criteria. It is noted that it is believed that usage conditions in metadata that control the player are functionally equivalent to the claimed criteria because Downs et al explicitly states that "metadata is used throughout this document to mean data related to content". It is further noted that copy restrictions will enable or disable a player. Logan(See abstract, Col. 1, paragraphs 3, 12, etc) shows metadata employed to control playback based on repertoire content. Hassell et al (See Col. 3, section 37) show metadata containing checksum criteria. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Downs et al because the metadata means are conventional functional equivalents. Regarding the network limitations of claim 9, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose a player means for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata delivered over a network which is a functional equivalent of the claim limitations. Regarding the storage limitations of claim 10, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17,

Art Unit: 3621

lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose a player means with storage for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata which is a functional equivalent of the claim limitations.

Regarding the storage limitations of claim 11, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose a player means with storage for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata which is a functional equivalent of the claim limitations. Regarding the analysis limitations of claim 12, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose means for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata which is a functional equivalent of the claim limitations.

Regarding the enabling limitations of claim 13, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose method for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata which is a functional equivalent of the claim limitations. Regarding the matching

Art Unit: 3621

limitations of claims 18-19, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose means for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata including a database (Col. 51, lines 45-55) of metadata for copy prevention which is a functional equivalent of the claim limitations. Regarding claim 20, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose an assembler means for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata substantially as claimed. The differences between the above and the claimed invention is the use of content criteria. It is noted that it is believed that usage conditions in metadata that control the player are functionally equivalent to the claimed criteria because Downs et al explicitly states that "metadata is used throughout this document to mean data related to content". It is further noted that copy restrictions will enable or disable a player. Logan(See abstract, Col. 1, paragraphs 3, 12, etc) shows metadata employed to control playback based on repertoire content. Hassell et al (See Col. 3, section 37) show metadata containing checksum criteria. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Downs et al because the

Art Unit: 3621

metadata means are conventional functional equivalents. Regarding the replacement limitations of claim 21, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose means for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata which is a functional equivalent of the claim limitations. Regarding the database limitations of claim 23, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose means for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata including a database (Col. 51, lines 45-55) which is a functional equivalent of the claim limitations. Regarding the database limitations of claim 24, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose means for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata including a database (Col. 51, lines 45-55) which is a functional equivalent of the claim limitations. Regarding the network limitations of claim 25, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose a means

Art Unit: 3621

for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata delivered over a network which is a functional equivalent of the claim limitations. Regarding the metadata limitations of claim 26, Downs et al (See Figs 8,9; Col. 9, lines 20-45, Col. 17, lines 5-10, Col. 18, steps 126-134, Col. 23, lines 35-55, Col. 26, lines 40-65, and col. 83, lines 20-25) disclose an assembler means for enabling digital playback dependent on the usage conditions including copy restriction contained in metadata that must be present to function which is a functional equivalent of the claim limitations. Regarding the metadata limitations of claim 29, Logan (See abstract, Col. 1, paragraphs 3, 12, etc) shows metadata employed to control playback based on repertoire content (i.e. Sinatra paragraph 12) which is a functional equivalent of the claim limitations. Note also that metadata has been employed in the prior playlist control such as winamp and realplayer.

Examiner's Note: Although Examiner has cited particular columns, line numbers and figures in the references as applied to the claims above for the convenience of the applicant(s), the specified citations are merely representative of the teaching of the prior art that are applied to specific limitations within the individual claim and other passages and figures may apply as well. It is respectfully requested that the applicant(s), in preparing the response, fully consider the items of evidence in

Art Unit: 3621

their entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

3. Claims 21,23, 25, 26 are rejected under 35 U.S.C. . 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Certain claims (21) contain the terms "unacceptable" which are not positive limitations. (See In re Collier, 158 USPQ 266) It is not clear what is being claimed. The claims require only a possibility rather than an actual limitation. For example, anything is possible given sufficient time and resources. It is not clear what is "matada" in claim 21.

Applicants arguments dated 01/9/2006 have been considered but are moot due the new ground of rejection. The argument relies on definitions which are non consistent with accepted usage. Downs et al explicitly states "metadata is used throughout this document to mean data related to content". Contrary to applicants' assertions checksum is a deterministic function of a **file's content**.

Any inquiry concerning this communication should be directed to Salvatore Cangialosi at telephone number **(571) 272-6927**. The examiner can normally be reached 6:30 Am to 5:00 PM, Tuesday through Friday. If attempts to reach the examiner by telephone

Serial Number: 10/680,899

10

Art Unit: 3621

are unsuccessful, the examiner's supervisor, James Trammell, can be reached at **(571) 272-6712**.

Any response to this action should be mailed to:

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Serial Number: 10/680,899

11

Art Unit: 3621

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SALVATORE CANGIALOSI
PRIMARY EXAMINER
ART UNIT 222